



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 59

[EPA-HQ-OAR-2006-0971; FRL-9644-9]

RIN 2060-AR37

**National Volatile Organic Compound Emission Standards for
Aerosol Coatings - Addition of Dimethyl Carbonate,
Benzotrifluoride, and Hexamethyldisiloxane to Table of
Reactivity Factors**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: The EPA is proposing to amend the National Volatile Organic Compound Emission Standards for Aerosol Coatings final rule, which is a rule that establishes national reactivity-based emission standards for the aerosol coatings category (aerosol spray paints) under the Clean Air Act. This proposed action adds three compounds: dimethyl carbonate, benzotrifluoride, and hexamethyldisiloxane and their associated reactivity factors to the aerosol coatings reactivity rule's table of reactivity factors based on petitions received from regulated entities. This action also revises two tables in the final rule, and corrects a typographical error in a test method reference. In the "Rules and Regulations" section of this Federal Register, we are making these same amendments as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will

not take further action on this proposed rule.

DATES: Written comments must be received by **[INSERT DATE 45 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing concerning the proposed regulation by **[INSERT DATE 10 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**, we will hold a public hearing on **[INSERT DATE 15 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. If a public hearing is held, it will be held at 10 a.m. at Building C on the EPA campus in Research Triangle Park, NC, or at an alternate site nearby. Persons interested in presenting oral testimony must contact Ms. Pamela Garrett, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Minerals and Manufacturing Group(D243-04), Research Triangle Park, North Carolina 27711, telephone number: (919)541-7966, fax number: (919)541-5450, email address: garrett.pamela@epa.gov, no later than **[INSERT DATE 10 DAYS AFTER PUBLICATION IN FEDERAL REGISTER]**. Persons interested in attending the public hearing must also call Ms. Garrett to verify the time, date and location of the hearing. If no one contacts Ms. Garrett by **[INSERT DATE 10 DAYS AFTER PUBLICATION IN FEDERAL REGISTER]** with a request to present oral testimony at the hearing, we will cancel the hearing.

ADDRESSES: Submit your comments, identified by Docket ID No.

EPA-HQ-OAR-2006-0971, by one of the following methods:

- <http://www.regulations.gov>:_Follow the on-line instructions for submitting comments.
- Email: a-and-r-docket@epa.gov.
- Fax: (202) 566-9744.
- Mail: U.S. Postal Service, send comments to: EPA Docket Center (6102T), Air and Radiation Docket, National Volatile Organic Emission Standards for Aerosol Coatings, Docket ID No. EPA-HQ-OAR-0971, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Please include a total of two copies.
- Hand Delivery: In person or by courier, deliver comments to: EPA Docket Center (6102T), National Volatile Organic Emission Standards for Aerosol Coatings, Docket ID No. EPA-HQ-OAR-0971, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2006-0971. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other

information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or email. The www.regulations.gov website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

in the rules section of this Federal Register.

FOR FURTHER INFORMATION CONTACT: For further information, contact Ms. J. Kaye Whitfield, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Minerals and Manufacturing Group (D243-04), Research Triangle

Park, NC 27711; telephone number (919)541-2509; fax number:
(919)541-5450; email address: whitfield.kaye@epa.gov.

SUPPLEMENTARY INFORMATION:

Organization of this Document: The following outline is
provided to aid in locating information in this document.

- I. Why is the EPA issuing this proposed rule?
- II. Does this action apply to me?
- III. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning Reviews
 - Executive Order 13563: Improving Regulation and Regulatory Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
 - H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

I. Why is the EPA issuing this proposed rule?

This document proposes to take action on the National Volatile Organic Compound Emission Standards for Aerosol Coatings final rule by adding three compounds: dimethyl carbonate, benzotrifluoride, hexamethyldisiloxane and their associated reactivity factors (RFs) to the aerosol coatings reactivity rule's table of RFs based on petitions received from regulated entities. This action also revises Table 1 of the

final rule by moving the units, expressed as grams of ozone per gram of product ($\text{g O}_3/\text{g product}$), from the table heading to the column entitled, "Reactivity Limit;" revises Tables 2A, 2B, and 2C by adding units, expressed as grams of ozone per gram of volatile organic compound ($\text{gO}_3/\text{g VOC}$), to the column entitled, "Reactivity Factors;" and corrects a test method typographical error by replacing the phrase "California Air Resources Board Method 3-0" in 40 CFR 59.515(a)(1) with "California Air Resources Board Method 310." We have published a direct final rule to make these same amendments in the "Rules and Regulations" section of this Federal Register because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule, and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time.

The regulatory text for the proposal is identical to that for the direct final rule published in the "Rules and Regulations"

section of this Federal Register. For further supplementary information, the detailed rationale for the proposal and the regulatory revisions, see the direct final rule published in a separate part of this Federal Register.

II. Does this action apply to me?

The entities potentially affected by this proposed rule are the same entities that are subject to the aerosol coatings final rule. The entities affected by the aerosol coatings final rule include: manufacturers, processors, distributors or importers of aerosol coatings for sale or distribution in the United States, and manufacturers, processors, distributors or importers who supply the entities listed above with aerosol coatings for sale or distribution in interstate commerce in the United States.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735 October 4, 1993) and is, therefore, not subject to review under the Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden because it serves to add compounds to Table 2A of the

rule and make several clarifying edits. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (40 CFR parts 51 and 59) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060-0617. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) a small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its

field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 USC 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This rule will not impose any requirements on small entities. We have determined that small businesses will not incur any adverse impacts because the EPA is taking this action to amend the aerosol coatings rule by adding compounds to Table 2A of the rule and making several clarifying edits. These amendments do not create any new requirements or burdens, and no costs are associated with these amendments.

We have, therefore, concluded that this proposed rule will relieve regulatory burden for all affected small entities.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This rule does not contain a federal mandate that may result in expenditures of \$100 million or more for state, local and tribal governments, in the aggregate, or the private sector in any one year. Thus, this rule is not subject to the requirements of sections 202 or 205 of Unfunded Mandates Reform Act (UMRA).

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. In this action, the EPA is amending Table 2A by adding three compounds and their associated RFs, and making several clarifying edits.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action adds compounds to Table 2A of the aerosol coatings rule, and makes several clarifying edits. Thus,

Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action adds compounds to Table 2A of the aerosol coatings rule, and makes several clarifying edits. Thus, Executive Order 13175 does not apply to this action.

EPA specifically solicits additional comment on this proposed action from tribal officials.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is based solely on technology performance.

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104-113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest

extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. Further, this action only adds compounds to Table 2A of the aerosol coatings rule, and makes several clarifying edits.

List of Subjects in 40 CFR Part 59

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 1, 2012.

Lisa P. Jackson,
Administrator.

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